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| HUGHES VILLAGE COUNCIL, | : | Order Affirming Decision |
| Appellant | : | |
| | : | |
| v. | : | |
| | : | Docket No. IBIA 93-71-A |
| ACTING JUNEAU AREA DIRECTOR, | : | |
| BUREAU OF INDIAN AFFAIRS, | : | |
| Appellee | : | September 16, 1993 |

Appellant Hughes Village Council seeks review of a March 23, 1993, decision issued by the Acting Juneau Area Director, Bureau of Indian Affairs (Area Director; BIA), denying appellant's application for a FY 1993 Small Tribes grant. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Pursuant to an announcement published at 57 FR 54480 (Nov. 18, 1992), appellant filed an application for a grant under the Small Tribes Program. The application was reviewed by a panel of reviewers in the Juneau Area Office. On March 23, 1993, the Area Director notified appellant that its application was denied. The letter stated:

The budget included as part of the application, under "objective two", a payment from the proposed grant of a \$15 or \$25 stipend to be paid to Council members for attendance at special or regular council meetings respectively. Section C(4) of the program announcement * * * requires that, "The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this announcement." Your inclusion of stipends for Council members makes the application ineligible.

By letter dated April 1, 1993, and entitled "Notice of Appeal," appellant requested reconsideration of the denial. Inter alia, appellant stated that no compensation would be paid "from this specific grant."

The Area Director treated appellant's submission as both a request for reconsideration and an appeal. On April 14, 1993, he informed appellant:

Your letter requests reconsideration because you allege the [BIA] was required to secure from [applicants] any additional information needed for proper review of applications. However, I would note to you that my letter sending out the program announcement clearly stated that applications that were inconsistent with the announcement would be disapproved. That letter also stated

that technical assistance would be available if requested, but, "no technical assistance will be provided after the deadline for receipt of applications, nor will major revisions or amendments to applications be accepted after that date." This provision was necessary because the process was competitive. Providing an opportunity for major revisions after the cut-off date would have been unfair to other competitors.

As a final matter, I would note that your application was found ineligible in the final analysis, not because the certification was missing (which you provided with your letter of appeal to me received April 8th), but because your budget for the proposed grant included funding for the stipends which were barred by the announcement.

In addition, the Area Director transmitted appellant's appeal and the administrative record to the Board.

Although informed of its right to do so, appellant did not file any additional statements with the Board.

Appellant's appeal is based on its offer to amend its grant application by the deletion of stipends to elected tribal officials. As the Area Director properly stated, such changes to an application after the deadline for submission cannot be accepted. In a competitive grant process, consideration of information presented after the date for filing an application would violate BIA's and the Board's duty to give fair and equitable consideration to all grant applications. See, e.g., Chippewa Cree Tribe of the Boy's Reservation v. Acting Billings Area Director, 23 IBIA 129 (1992); Sac and Fox Tribe of Missouri v. Deputy Commissioner of Indian Affairs, 21 IBIA 196 (1992).

Furthermore, the Area Director also correctly stated that the initial review of an application to ensure its completeness does not provide relief for appellant. Appellant's application was not denied because it was incomplete. It was denied because it included an impermissible use of grant funds.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Juneau Area Director's March 23, 1993, decision is affirmed.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge